



IFW

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

## In re Application

Inventor(s): Steve Mitchell  
Appl. No.: 10/685,011  
Confirm. No.: 4285  
Filed: October 14, 2003  
Title: Artificial Vertebral Disk Replacement Implant with a  
Spacer and Method

PATENT APPLICATION

Art Unit: 3738  
Examiner: Unknown  
Customer No. 23910

## CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 6/10/04

(Attorney Signature)

Sheldon R. Meyer, Reg. No. 27660  
Signature Date: 6/10/04

## INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 CFR §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

*Enclosed with this statement are the following:*

- X Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with MPEP §609.
- X The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at [pac/dapp/opla/preognotice/idswouscopies.htm](http://pac/dapp/opla/preognotice/idswouscopies.htm), copies of cited U.S. patents and publications are not enclosed. Copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 C.F.R. §1.98(a)(2), as still required.
- X **PTA Statement under 37 CFR §1.704(d).** Each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the information disclosure statement. A copy of the communication (International Search Report) is enclosed.

*This statement should be considered because:*

- X 37 CFR §1.97(b). This statement qualifies under 37 CFR §1.97; subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under §1.53(d);  
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;  
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 CFR §1.114.

— 37 CFR §1.97(c). Although it may not qualify under subsection (b), this statement qualifies under 37 CFR §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- (1) It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e).  
-- OR --  
— (2) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p).

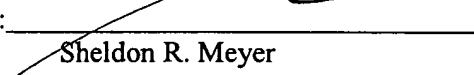
— 37 CFR §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 CFR §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the issue fee;  
-- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e);  
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p).

X **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325.

Respectfully submitted,

Date: 6/7/04

By:   
Sheldon R. Meyer  
Reg. No. 27,660

Customer No. 23910  
Fliesler Meyer LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
415/362-3800 Telephone

FORM PTO-1449

(Substitute)

US DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

Attorney Docket Number

KLYCD-05010US1

Serial No.

10/685,011

**INFORMATION DISCLOSURE CITATION  
BY APPLICANT**

(Use several sheets if necessary)

Applicant

Steve Mitchell

Filing Date

October 14, 2003

Group Art Unit

3738

**U.S. PATENTS**

| Examiner Initial |    | Patent Number | Issue Date | Name      | Class | Subclass | Filing Date |
|------------------|----|---------------|------------|-----------|-------|----------|-------------|
|                  | 1. | 4,878,915 A   | 11/7/1989  | Brantigan |       |          |             |
|                  | 2. | 5,390,683 A   | 2/21/1995  | Pisharodi |       |          |             |
|                  |    |               |            |           |       |          |             |

**U.S. PATENT PUBLICATIONS**

| Examiner Initial |  | Patent Application Publication Number | Publication Date | Applicant |
|------------------|--|---------------------------------------|------------------|-----------|
|                  |  |                                       |                  |           |
|                  |  |                                       |                  |           |
|                  |  |                                       |                  |           |

**PENDING U.S. PATENT APPLICATIONS**

| Examiner Initial |  | Application Number | Filing Date | Inventor | Petition to Expunge |    |
|------------------|--|--------------------|-------------|----------|---------------------|----|
|                  |  |                    |             |          | Yes                 | No |
|                  |  |                    |             |          |                     |    |
|                  |  |                    |             |          |                     |    |
|                  |  |                    |             |          |                     |    |

**FOREIGN PATENT DOCUMENTS**

| Examiner Initial |  | Document Number | Publication Date | Country | Translation |    |
|------------------|--|-----------------|------------------|---------|-------------|----|
|                  |  |                 |                  |         | Yes         | No |
|                  |  |                 |                  |         |             |    |
|                  |  |                 |                  |         |             |    |
|                  |  |                 |                  |         |             |    |

**OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)**

|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if references considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

\*1 = Copy not submitted because it was submitted in prior application \_\_\_\_/\_\_\_\_\_, filed \_\_\_\_\_, 20\_\_\_\_, and relied upon under 35 USC § 120.

\*2 = Copy not submitted because it was submitted in prior application \_\_\_\_/\_\_\_\_\_, filed \_\_\_\_\_, 20\_\_\_\_, and relied upon under 35 USC § 120.